

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

STEVEN CURD and REBEL CURD,	:	
Derivatively on behalf of SEI	:	CIVIL ACTION
INTERNATIONAL EQUITY FUND, SEI	:	No. 13-7219
HIGH YIELD BOND FUND, SEI	:	
TAX-MANAGED LARGE CAP FUND, SEI	:	
TAX-MANAGED SMALL/MID CAP	:	
FUND, and SEI INTERMEDIATE-TERM	:	
MUNICIPAL FUND,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
SEI INVESTMENTS MANAGEMENT	:	
CORPORATION	:	
	:	
Defendant.	:	

ORDER

AND NOW, this _____ day of August, 2014, it is **ORDERED** that Defendant SEI Investment Management Corporation (“SIMC”)’s Motion to Dismiss the Complaint [ECF No. 10] is **GRANTED**.¹ Plaintiffs are **GRANTED** leave to file an amended complaint on or before **October 2, 2014**. If Plaintiffs do not file an amended complaint, I will issue an order and memorandum dismissing the Complaint with prejudice. It is further ordered that the Nominal Defendants’ Motion to Dismiss [ECF No. 36] is **DENIED** as moot without prejudice to refile in

¹ The Curds’ Complaint is untimely because it lacks allegations that SIMC charged excessive fees at any time during the one year period prior to its filing on December 11, 2013. Section 36(b) of the Investment Company Act provides that “[n]o award of damages shall be recoverable for any period prior to one year before the action was instituted.” 15 U.S.C. § 80a-35(b)(3). The Curds’ Complaint contains allegations related solely to the fees paid to SIMC during the SEI Funds’ 2012 fiscal years, which Plaintiffs acknowledge ended on September 30, 2012 and August 31, 2012. Compl. ¶ 26. Regardless of their timeliness, I have serious doubts about the sufficiency of the allegations in the Complaint as compared to the standard for a violation of Section 36(b) articulated in *Gartenberg v. Merrill Lynch Asset Management, Inc.*, 694 F.2d 923, 928 (2d Cir. 1982), and adopted by the Supreme Court in *Jones v. Harris Associates L.P.*, 559 U.S. 335, 347 (2010).

response to the filing of an amended complaint.

s/Anita B. Brody

ANITA B. BRODY, J.

Copies **VIA ECF** on _____ to:

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